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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by the Transnational Radical Party, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[22 March 1996]

1. AIDS is a global pandemic, and people with HIV find themselves the victims of stigmatization throughout the world. Stigma and discrimination are the enemies of public health. Experience in responding to the HIV/AIDS pandemic has taught the broad and critical dual dimension of this vital lesson. First, stigma and discrimination are tragic effects of the HIV/AIDS pandemic causing great human suffering and also undermining public health efforts to prevent the further spread of HIV. For this reason, preventing discrimination vis-à-vis HIV-infected people and people with AIDS has for the first time in history been made an essential part of the public health strategy to prevent and control the global epidemic.

2. Recently, the HIV/AIDS pandemic has taught a less well-appreciated, larger lesson about health. For it is now clear that vulnerability to infection with HIV derives directly from stigma and discrimination and, more broadly, violations of human rights and dignity occurring within each society. In fact, between 1991 and 1993, there were 15 reports of systematic HIV-related human rights violations from Colombia, The Russian Federation, Hungary, Belgium, Venezuela, Myanmar, Thailand, Cuba, the United States of America, Croatia, Brazil and Mexico. Abuses were perpetuated by governmental

and non-governmental actors. They contradicted international accepted public health standards, human rights treaties and often local laws. Moreover, according to one of the latest reports on China, first-year students matriculating at Shanghai universities in 1995 were required to undergo a physical check-up on the first day of school; those who tested positive for HIV were not permitted to enrol. Thus, we have learned that, to uproot the HIV/AIDS epidemic, as well as to protect and promote health more generally, human rights and dignity must be protected and advanced.

3. Relevant resolutions and decisions have been adopted in this regard by United Nations organizations and other competent forums. Among the most significant ones are General Assembly resolutions 45/187 of 21 December 1990 and 46/203 of 20 December 1991, Economic and Social Council resolution 1990/86 of 27 July 1990, World Health Assembly resolutions WHA41.24 of 13 May 1988, WHA43.10 of 16 May 1990, WHA45.35 of 14 May 1992 and WHA37 of 14 May 1993 and general recommendation 15 of the Committee on the Elimination of Discrimination against Women. Promotion and protection of the rights of people infected and affected by HIV/AIDS have been consolidated in the Final Declaration of the Paris AIDS Summit of 1 December 1994.

4. In fighting discrimination against the rights of people living with HIV/AIDS, the World Health Organization, and other bodies of the United Nations system, and national and international non-governmental organizations, in particular those of people living with HIV/AIDS, play a significant role. Examples are Commission resolutions 1992/56 of 3 March 1992, 1993/53 of 9 March 1993 and 1994/49 of 4 March 1994.

5. According to a report submitted to the Commission on the Status of Women at its thirty-third session (E/CN.6/1989/6/Add.1), women and children are especially vulnerable to the risk of HIV infection and to the economic and social impact of AIDS as a result of their disadvantageous legal, social and economic status. Certain groups in society suffer discrimination in the enjoyment of their fundamental rights, and disadvantage regarding their access to education, health care and social services. Consequently, they are more vulnerable to the risk of infection and to the personal and social impact of the pandemic. Laws, policies and new forms of practices are discriminating against people living with HIV/AIDS, their families and associates, as well as high-risk groups.

6. The World Health Assembly has recognized in its resolution WHA45.35 that there is no public health rationale for any measures that limit the rights of the individual, notably measures establishing mandatory screening.

7. Discrimination and stigmatization are counter-productive as measures to prevent and control HIV/AIDS, and anti-discrimination measures form a component part of an effective public health strategy. Therefore, Governments should take measures to avoid social stigmatization of and discrimination against those affected by HIV/AIDS, and strengthen national and international mechanisms that are related to HIV/AIDS-related human rights and ethics. Informed and responsible behaviour can prevent HIV transmission. This explains the role and responsibility of individuals, groups and organs of society to promote, in a spirit of human solidarity and tolerance, a social environment that supports prevention of the HIV/AIDS pandemic.

8. A positive sign is the report by the Secretary-General on international and domestic measures to protect human rights and prevent discrimination in the context of HIV/AIDS (E/CN.4/1995/45) and his recommendations, although there is insufficient information about successful strategies for the protection of human rights regarding HIV/AIDS.

9. Tragically, the HIV epidemic continues to grow. Those who contract HIV in 1996 tend to be younger and poorer than a decade ago. The continuing growth of HIV infection is all the more tragic since the disease is entirely preventable. Numerous studies have confirmed that target prevention reduces high-risk behaviour and rates of new infections among women, communities of coloured people, heterosexuals, homosexuals and youth. The cost of preventing a case of infection is but a fraction of the lifetime medical costs for a person with HIV. Unfortunately, society at large has failed to invest substantial resources in humane, cost-effective strategies to prevent the spread of HIV. Therefore, States should ensure, where necessary, that their laws, policies and practices, including those regarding HIV/AIDS, respect human rights standards. They should also include the right to privacy and integrity of people living with HIV/AIDS and the prohibition of HIV/AIDS-related discrimination, without having the effect of inhibiting programmes for the prevention of HIV/AIDS and for the care of persons infected.

10. All States need to take the necessary steps, including appropriate and speedy redress procedures and the introduction of protective legislation and appropriate education to fight against discrimination, prejudice and stigma, to ensure the full enjoyment of civil, political, economic, social and cultural rights by people living with HIV/AIDS, their families and associates, and people presumed to be at risk of infection, with particular attention to women, children and vulnerable groups, and to address such concerns within their activities in the context of the United Nations Year for Tolerance. All States need to strengthen their efforts to promote the legal, economic and social status of women, children and vulnerable groups in order to make them less vulnerable to the risk of HIV infection and to the adverse socio-economic consequences of the AIDS pandemic.

11. We ask the United Nations High Commissioner for Human Rights to consider appropriate methods to keep the protection of human rights in the context of the HIV/AIDS pandemic under continuous review. We encourage the elaboration of guidelines, with the collaboration of the Centre for Human Rights and the United Nations programme on HIV/AIDS, non-governmental agencies and others. In this regard, the possible organization of a second international expert consultation on human rights and AIDS should be considered. We also ask the Secretary-General to consult with Governments, relevant United Nations bodies, specialized agencies and non-governmental organizations about the protection of human rights in the context of the HIV/AIDS pandemic, and to prepare for the fifty-third session of the Commission a report on the development of a human rights component in the United Nations programme on HIV/AIDS and on the status of the guidelines mentioned above.